

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<p>BRIAN TOTIN,</p> <p style="text-align: center;"><i>Plaintiff,</i></p> <p style="text-align: center;">- vs. -</p> <p>CALIBER ASSOCIATES, INC., AVRAHAM BABADJANOV <i>and</i> JOSEPH WILSON,</p> <p style="text-align: center;"><i>Defendant.</i></p>	<p>Civil Action No.</p> <p style="text-align: center;">1:19-cv-9702</p> <p style="text-align: center;"><b>ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS BABADJANOV AND WILSON</b></p>
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Defendants Avraham Babadjanov and Joseph Wilson, by and through their undersigned counsel, Mandelbaum Salsburg, P.C., answer the Complaint of plaintiff Brian Totin herein as follows:

1. The allegations of ¶ 1 are denied except to the extent that they are merely characterizations of the Complaint, in which case neither denial nor admission is required or appropriate.
2. Denied.
3. Denied.
4. Admitted, except defendants deny information and belief sufficient to admit or deny the allegation that plaintiff is a licensed real estate salesperson or concerning his affiliations.

**JURISDICTION AND VENUE**

5. Admitted.

6. Admitted with respect to the allegations concerning personal jurisdiction, but denied concerning the other allegations of this paragraph of the Complaint.

7. Admitted with respect to the allegations concerning venue, but denied concerning the other allegations of this paragraph of the Complaint.

### **THE PARTIES**

8. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

9. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

10. Denied, except admitted that defendant Babadjanov is a licensed real estate salesperson.

11. Denied, except admitted that defendant Wilson is a licensed real estate salesperson.

### **ALLEGATIONS**

12. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

13. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

14. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

15. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

16. Defendants deny knowledge or information sufficient to form a belief as to the

allegations of this paragraph of the Complaint.

17. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

18. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

19. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

20. Neither denial nor admission is required or appropriate to this paragraph of the Complaint.

21. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

22. Denied.

23. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

24. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

25. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

26. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

27. Neither denial nor admission is required or appropriate to this paragraph of the Complaint.

28. Neither denial nor admission is required or appropriate to this paragraph of the

Complaint.

29. Neither denial nor admission is required or appropriate to this paragraph of the Complaint.

30. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

31. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

32. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

33. Neither denial nor admission is required or appropriate to this paragraph of the Complaint.

34. Neither denial nor admission is required or appropriate to this paragraph of the Complaint.

35. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

36. Neither denial nor admission is required or appropriate to this paragraph of the Complaint.

37. Denied with respect to the answering defendants.

38. Denied with respect to the answering defendants.

39. Denied with respect to the answering defendants.

40. Denied with respect to the answering defendants.

41. Denied with respect to the answering defendants.

42. Denied with respect to the answering defendants.

43. Denied with respect to the answering defendants.

**FIRST CLAIM FOR RELIEF**

44. Defendant repeat and incorporate their responses to the corresponding allegations of the Complaint, as if set forth fully herein.

45. Denied.

46. Admitted.

47. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

48. Denied.

**SECOND CLAIM FOR RELIEF**

49. Defendant repeat and incorporate their responses to the corresponding allegations of the Complaint, as if set forth fully herein.

50. Denied.

51. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

52. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

53. Denied.

**THIRD CLAIM FOR RELIEF**

54. Defendant repeats and incorporates her responses to the corresponding allegations of the Complaint, as if set forth fully herein.

55. Denied.

56. Denied.

57. Defendants deny knowledge or information sufficient to form a belief as to the allegations of this paragraph of the Complaint.

58. Denied.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff fails to set forth a claim upon which relief can be granted because the alleged works do not meet the minimum threshold for creativity sufficient for copyright protection.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff's claimed damages, if any, are the result of intervening or superseding conduct by parties over which defendants had no responsibility or control.

**WHEREFORE**, defendants Avraham Babadjanov and Joseph Wilson demand judgment as follows:

- a. dismissing the Complaint in its entirety; and
- b. awarding defendant costs and disbursements of this action, attorneys' fees, and such other and further relief as this Court may deem just and proper.

**MANDELBAUM SALSBERG, PC**

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*Attorneys for DefendantS  
Avraham Babadjanov and Joseph Wilson*

Dated: February 5, 2020